

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ERNEST FLAGG, as Next Friend
of JONATHAN BOND,

No. 05-74253

Plaintiff,

District Judge Gerald E. Rosen

v.

Magistrate Judge R. Steven Whalen

CITY OF DETROIT, et.al.,

Defendants.

ORDER

On April 7, 2009, the parties, through counsel, appeared in open court in response to the show cause order entered on March 24, 2009. Because the Defendants have demonstrated that the text messages that have been publicly released comprise only a portion of the text messages provided to the Court for *in camera* review, the Court will not, at this time, order the production of *all* of said messages. The Court will take under advisement the question of whether all or any of the publicly available text messages will be ordered released.

Furthermore, for the reasons and under the terms stated on the record on April 7, 2009, counsel for the parties are directed to meet and confer with regard to the text messages that have been publicly released.¹ Within 30 days of the date of this Order, the parties will file a joint list of resolved and unresolved issues, identifying with specificity

¹ These comprise text messages that were released in January of 2008, as well as additional texts of Defendants Kilpatrick, Beatty and others that were subsequently released in October of 2008 and March of 2009, by order of Wayne County Circuit Court Judge Timothy Kenny, in *People of the State of Michigan v. Kwame Kilpatrick and Christine Beatty*, Cir. Ct. No. 08-010496-FH.

(i.e., PIN, holder of the device, date and time) those text messages the parties agree are not relevant or otherwise discoverable², and those text messages for which there is disagreement as to discoverability.³

SO ORDERED.

s/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: April 7, 2009

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served on the attorneys and/or parties of record by electronic means or U.S. Mail on April 7, 2009.

s/Susan Jefferson
Case Manager

² These would include texts that fall outside the time frame contemplated in the present case, that is, August 1, 2002 to April 17, 2004.

³ Issues of discoverability and relevance are defined under the standards of Fed.R.Civ.P. 26(b)(1).